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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/213,131	12/15/1998	ERIC C. ANDERSON	736CP126C	7384

29141 7590 12/05/2005
SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

EXAMINER

AGGARWAL, YOGESH K

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/213,131	ANDERSON, ERIC C.	
	Examiner	Art Unit	
	Yogesh K. Aggarwal	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9, 11-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9, 11-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments, filed 11/21/2005, with respect to claims 7-9, 11-18, 20-22 have been fully considered and are persuasive. The rejection of claims 7-9, 11-18, 20-22 has been withdrawn.

2. Applicant argues that the present application is a continuation of U.S. Patent Application Serial No. 08/891,424 filed on July 9, 1997, issued as U.S. Patent No. 5,973,734. Anderson has a filing date of July 31, 1997. Thus, the present application has a filing date prior to Anderson. Consequently, the priority date of the present application is earlier than that of Anderson. The Examiner agrees and therefore rejection is withdrawn. It is also noted that that the Suzuki reference having a filing date of September 10, 1997 does not qualify as prior art. Therefore the rejection is withdrawn. In the interview held on November 12, 2005 the prior art (Suzuki) was discussed but no agreement was reached.

3. It is noted that this application appears to claim subject matter disclosed in prior Application No. 08/891,424, filed July 9, 1997. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the

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filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit

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claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required.

Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7-9, 11-18 and 20-22 and are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,270,831 to Parulski et al.) in view of Hayakawa et al. (US Patent # 5,550,938).

[Claim 7]

Parulski discloses a method for correcting an aspect ratio of an image captured by an image capture device comprising the steps of:

- (a) rotating the image, if required, so that the image appears upright on the image capture device (e.g. column 2, lines 40-45; column 3, lines 12-19; column 6, line 62 – column 7, line 2);
- (b) determining if the aspect ratio of the image matches a predetermined aspect ratio (e.g., column 7, lines 3- column 8, line 8; Figs. 5-9);
- (c) decompressing the image if required (e.g., column 4, line 60 – column 5, line 4);

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(d) cropping the image if the aspect ratio does not match the predetermined aspect ratio, thereby providing a cropped image (e.g., column 7, lines 3- column 8, line 8; Figs. 5-9);

(e) providing the cropped image to a display (e.g., Figs. 5-9);

wherein the image capture device is a digital camera (e.g., scanner 12 of Fig. 1; column 4, lines 35-49; also note column 4, lines 26-31).

Parulski teaches a digital scanner 12 (analogous to a digital camera) and a separate playback device 14 with a display but does not teach if the digital scanner and the playback device are integrated into a single device. However Hayakawa et al. teaches an image scanner (figures 1 and 3) that includes a LCD display 2 for displaying scanned images and an image sensor 51 integrated into one device (col. 2 line 60-col. 3 line 1) in order to have a device that is operable anywhere and not limited by place, i.e. a place that has a host computer (col. 1 lines 58-61).

Therefore taking the combined teachings of Parulski and Hayakawa, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have used the digital scanner and display device of Parulski be integrated into one device in order to have a device that is operable anywhere and not limited by place, i.e. a place that has a host computer (col. 1 lines 58-61).

[Claim 8]

Parulski discloses wherein the step of cropping the image further comprises the step of:

(d1) resizing the image (e.g., column 8, lines 29-63).

[Claim 9]

Parulski discloses wherein the aspect ratio determining step (a) further comprises the step of:

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(b1) determining the aspect ratio of the image; and

(b2) determining if the aspect ratio of the image matches an aspect ratio of the display

(e.g., column 7, lines 3- column 8, line 8; Figs. 5-9).

[Claim 11]

In regards to claim 11, Hayakawa discloses a LCD monitor (col. 3 line 1).

[Claims 12 and 20]

In regards to claims 12 and 20, Examiner notes page 12, lines 11-14 of the instant invention for the definition of a scrennail image. Examiner notes column 7, lines 39-61 of Parulski wherein by providing an image that fills the visible area of the display, Parulski provides a scrennail image.

[Claim 13]

In regards to claim 13, note column 4, line 60 – column 5, line 4 of Parulski wherein iteratively higher resolution images can be displayed.

[Claim 14]

In regards to claim 14 see Examiners notes on the rejections above, wherein the same display steps for cropping the image would be applied to the higher resolution images.

[Claims 15-17]

In regards to claims 15-17 see Examiners notes on the rejections above.

[Claims 18, 21-22]

In regards to claims 18 and 21-22 see Examiners notes on the rejection of the claims above.

Conclusion

6. Applicant's assertion of continuation status back to the 08/891424 application necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.


7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571)-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YKA

November 29, 2005



DAVID OMETZ
SUPERVISORY PATENT EXAMINER